



NATIONAL MEDIATION BOARD
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42 NMB No. 18

May 5, 2015

Via Email

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Re: NMB File No. C-7137/ Case Nos. R-5611, R-5718, R-5720
NTSA/Long Island Railroad/BRS

Participants:

This determination addresses the request from the Brotherhood of Railroad Signalmen (BRS) to transfer the certifications in Case Nos. R-5611, R-5718, and R-5720 from the National Transportation Supervisors Association (NTSA) to the BRS. For the reasons discussed below, the National Mediation Board (Board) grants the request and transfers the NTSA's certifications to the BRS.

BACKGROUND

Previously, the Board certified the NTSA to represent the following crafts or classes for the Long Island Railroad (Carrier) in the following cases: the Technical Engineers, Architects, Draftsmen and Allied Workers in Case No. R-5611 (1986); the Power Directors and Load Dispatchers in Case No. R-5718

(1987); and the Supervisors Special Services in Case No. R-5720 (1987). In a letter dated March 25, 2015, BRS President W. Dan Pickett notified the Board that the NTSA joined the BRS in a merger. Based on that merger, Mr. Pickett asked the Board to transfer the representation certifications in Case Nos. R-5611, R-5718, and R-5720 from the NTSA to the BRS. The Board notified the Carrier of Mr. Pickett's request and gave the Carrier until May 1, 2015 to provide the Board with comments. The Carrier did not submit any comments.

THE MERGER OF THE NTSA AND THE BRS

On March 24, 2015, officers of both the NTSA and the BRS signed the Agreement for Charter of Local Lodge and Transfer of Representation Certifications (Agreement). The NTSA and BRS officers who signed the Agreement indicated that they completed the merger in accordance with their respective organizations' constitutions.

The Agreement states that the BRS would create a new local lodge called BRS Local Lodge 241, and all NTSA members would become members of it. The Agreement also states that the NTSA would cease to exist, and that the NTSA Constitution and By-Laws would have no further effect (except to the extent needed to complete the merger and to transfer certain official posts from the NTSA to the BRS). Finally, the Agreement provides that the BRS and BRS Local Lodge 241 "would succeed to all the rights, privileges and obligations of the NTSA;" and BRS Local Lodge 241 would be governed by the BRS Constitution.

DISCUSSION

The Railway Labor Act¹ requires only that the Board investigate a transfer of certification based on a union merger rather than mandating any procedures for such an investigation. *Continental Airlines, Inc., v. Nat'l Mediation Bd.*, 793 F. Supp. 330 (D.D.C. 1991), *aff'd mem.*, 957 F.2d 911 (D.C. Cir. 1992).

In most instances, the Board grants a transfer request based upon assertions contained in the request letters. *Kyle Railroad Co.*, 40 NMB 248 (2013); *Capitol Cargo Int'l Airlines, Inc.*, 34 NMB 190 (2007); *St Lawrence & Atlantic R.R., Inc.*, 32 NMB 49 (2004); *Consolidated Rail Corp.*, 28 NMB 30 (2000); *Big Sky Transp. Co.*, 25 NMB 376 (1998); *Desert Sun Airlines*, 24 NMB 137 (1997). The Board views an organization's decision to merge into another organization as an internal union matter and will grant requests for transfers of certification based on union mergers unless there is evidence of fraud or

¹ 45 U.S.C. § 151, *et seq.*

gross abuse in the merger or election. *Northwest Airlines*, 18 NMB 446, 448 (1991).

There is no evidence of fraud or gross abuse in the merger or election process in this case. Based on its investigation, the Board finds that, in accordance with the Agreement and the NTSA's and the BRS's respective constitutions, the NTSA has joined the BRS in a merger. The Board's records are revised to reflect that the certifications issued to the NTSA in NMB Case Nos. R-5611, R-5718, and R-5720 are transferred to the BRS.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in cursive script that reads "Mary L. Johnson".

Mary L. Johnson
General Counsel